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IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	No. 2:04-cr-00069-MCE
	)	
Plaintiff,	)	FINAL ORDER OF FORFEITURE -
	)	LUXEMBOURG FUNDS
v.	)	
	)	
LARRY J. WELLS, and	)	
JEFFREY WELLS,	)	
	)	
Defendants.	)	
	)	

The Court makes the following FINDINGS:

1. On February 12, 2007, this Court entered a Preliminary Order of Forfeiture against, among other assets, the following asset:

All funds frozen in Luxembourg in or about August 2005 pursuant to a Mutual Legal Assistance Treaty Request sent on or about May 10, 2004 (hereinafter the "Luxembourg funds").

The Court found that the Luxembourg funds constitute property traceable to a violation of 18 U.S.C. § 1957, as charged in Count Twenty-Two, to which defendant Larry J. Wells has pleaded guilty, and are therefore subject to forfeiture pursuant to 18 U.S.C. § 982(a)(1) and Fed. R. Crim. P. 32.2(b)(1), and that the

1 government has established the requisite nexus between such  
2 property and the offense of conviction.

3 2. Pursuant to 18 U.S.C. § 982, incorporating 21 U.S.C. §  
4 853(n), third parties asserting a legal interest in the  
5 Luxembourg funds are entitled to a judicial determination of the  
6 validity of the legal claims or interests they assert. Section  
7 853(n)(1) specifies that following the entry of the order of  
8 forfeiture, the United States shall publish notice of the order  
9 and of its intent to dispose of the property in such manner as  
10 the Attorney General may direct. Section 853(n)(1) further  
11 specifies that to the extent practicable the United States may  
12 also provide direct written notice to any person known to have  
13 alleged an interest in the property that is the subject of the  
14 order of forfeiture as a substitute for published notice as to  
15 those persons so notified.

16 3. On February 23, March 2, and 9, 2007, the United States  
17 published notice of the Court's Preliminary Order of Forfeiture  
18 in The Daily Recorder (Sacramento County) and The Monterey Herald  
19 (Monterey County), newspapers of general circulation located in  
20 this judicial district and in the judicial district where  
21 defendant Larry Wells resided. Said published notice advised all  
22 third parties of their right to petition the Court within thirty  
23 (30) days of the publication date for a hearing to adjudicate the  
24 validity of their alleged legal interest in the forfeited  
25 property. A copy of said notices were filed on March 15, 2007.  
26 The United States also published notice of the Court's  
27 Preliminary Order of forfeiture on the internet site:  
28 [www.forfeiture.gov](http://www.forfeiture.gov). See Declaration of Publication filed

1 concurrently herewith.

2       4. Apart from the defendants (whose interest in the  
3 Luxembourg funds was extinguished upon entry of the Preliminary  
4 Order of Forfeiture) the only individual known to have alleged an  
5 interest in the Luxembourg funds is an individual named Anacleto  
6 Salciccia. See Declaration of Henry M. Kaiser filed concurrently  
7 herewith; Declaration of Larry J. Wells filed concurrently  
8 herewith. Accordingly, on or about October 18, 2007, the United  
9 States caused notice of forfeiture to be transmitted directly to  
10 Anacleto Salciccia at a known address for that individual in  
11 Istanbul, Turkey. The United States has demonstrated that  
12 Anacleto Salciccia received actual notice of this Court's  
13 Preliminary Order of Forfeiture because the U.S. Attorney's  
14 Office for the Eastern District of California was contacted by an  
15 attorney who represented that he had been contacted by Anacleto  
16 Salciccia in connection with this forfeiture proceeding  
17 concerning the Luxembourg funds. See Declaration of Courtney J.  
18 Linn at ¶ 3. The attorney requested an extension of time in  
19 which to prepare and file a petition on Anacleto Salciccia's  
20 behalf and the United States acceded to that request. Id. &  
21 Attachments B and C thereto. When the time for filing a petition  
22 had elapsed, the United States contacted the attorney who  
23 requested additional time in which to determine whether Anacleto  
24 Salciccia wished to file a petition. Id. & Attachment D thereto.  
25 That period of time has now also elapsed and Anacleto Salciccia  
26 has not filed a petition with this Court, timely or untimely.

27       5. Accordingly, the government has provided the requisite  
28 notice of this Court's preliminary order of forfeiture filed

February 12, 2007, and of its intent to forfeit the Luxembourg funds and no party has filed a timely petition as required by Section 853(n). In such circumstance, Fed. R. Crim. P. 32.2(c)(2) provides that if "no third party files a timely petition, the preliminary order of forfeiture becomes the final order of forfeiture if the court finds that the defendant (or any combination of defendant convicted in the case) had an interest in the property that is forfeitable under the applicable statute. Here, defendants Henry Kaiser and Larry Wells had an interest in the Luxembourg funds prior to the transfer of the funds into an account under the name of "Lybra" at Banca di Roma in Luxembourg. See Factual Basis in Plea Agreement of Henry Mead Kaiser filed April 13, 2004; *see also* Kaiser Decl. at ¶ 16-18; *see also* Factual Basis in Plea Agreement of Larry J. Wells filed June 19, 2006; *see also* Wells Decl. at ¶ 2. Section 853(c) of title 21, which is incorporated through 18 U.S.C. § 981(c), provides that title to the Luxembourg funds vests in the United States upon the commission of the act giving rise to forfeiture and that the Court has the authority to order the forfeiture of the Luxembourg funds, notwithstanding the fact that they were subsequently transferred to a third party unless the transferee makes certain showings, which showings the transferee has not made here.

Accordingly, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. A Final Order of Forfeiture is hereby entered forfeiting to the United States of America all right, title, and interest in the following property pursuant to 18 U.S.C. § 982(a)(1), to be disposed of according to law, including all right, title, and

1 interest of defendants Larry J. Wells and Jeffrey Wells:

2 a. All funds frozen in Luxembourg in or about August  
3 2005 pursuant to a Mutual Legal Assistance Treaty  
4 Request sent on or about May 10, 2004 (hereinafter  
the "Luxembourg funds").

5 2. All right, title, and interest in the above-described  
6 property shall vest solely in the United States America.

7 3. The United States Marshals Service shall maintain  
8 custody of and control over the Luxembourg funds, once they have  
9 been repatriated, until they are disposed of according to law.

10 Dated: March 26, 2008

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13 MORRISON C. ENGLAND, JR.  
14 UNITED STATES DISTRICT JUDGE  
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